

MINUTE ITEM

This Calendar Item No. C02 was approved as Minute Item No. 02 by the California State Lands Commission by a vote of 3 to 2 at its 11-01-06 meeting.

CALENDAR ITEM

C02

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11/01/06

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PRC 8457

WP 8457.9

M. Hays

TERMINATION AND ISSUANCE OF A RECREATIONAL PIER LEASE

LESSEES:

Victor L. Metas and Shirley F. Metas, Trustees of the Metas Trust Dated June 17, 1998

APPLICANTS:

Victor L. Metas and Shirley F. Metas, Trustees of the Metas Trust Dated June 17, 1998, and William W. Reinhard, as Trustee of the William W. Reinhard Trust created by Revocable Living Trust Agreement Dated March 8, 1993

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Lake Tahoe, Agate Bay, Placer County.

AUTHORIZED USE:

The removal of an existing single use pier, two remnant pilings and one rock crib pier remnant; and the construction, use and maintenance of a joint use pier; and the retention of two existing mooring buoys; and the use and maintenance of two existing mooring buoys as shown on the attached Exhibit A.

LEASE TERM:

Ten years, beginning October 12, 2006.

CONSIDERATION:

No monetary consideration pursuant to Public Resources Code section 6503.5.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$300,000.

Other:

This lease is conditioned on the Applicants obtaining authorization from the Tahoe Regional Planning Agency (TRPA) for the mooring buoys within two years after the adoption of the Lake Tahoe Shorezone Amendments-

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Draft Environmental Impact Statement (EIS) and approval of the ordinances based on the EIS.

OTHER PERTINENT INFORMATION:

1. On April 7, 2003, the Commission authorized a Recreational Pier Lease for two mooring buoys with Victor L. Metas and Shirley F. Metas, Trustees of the Metas Trust dated June 17, 1998. That lease will expire on March 31, 2013.
2. Applicants are proposing to remove an existing single use pier, two remnant pier pilings, and a remnant of a rock crib pier structure not previously authorized by the Commission, on and adjacent to the Reinhard property, and construct a new joint use pier extending from the common property line between the Metas and Reinhard properties. Staff recommends termination of the existing lease and issuance of a new Recreational Pier Lease for the removal of the existing pier and remnants, the construction of a joint use pier, and the retention of four existing mooring buoys, two of which were previously authorized by the Commission.
3. Applicants qualify for a Recreational Pier Lease because they are natural persons who have improved the littoral land with, and use the upland for, a single-family dwelling.
4. The proposed project is located in suitable Tahoe Yellow Cress (TYC) habitat. The TYC is listed under the provisions of the California Endangered Species Act as an endangered plant species subject to special protection at Lake Tahoe. On October 1, 2002, the Commission authorized the Executive Officer on their behalf to sign a Memorandum of Understanding to implement the "Conservation Strategy For Tahoe Yellow Cress (*Rorippa subumbellata*) in conjunction with the Tahoe Regional Planning Agency, the U.S. Fish and Wildlife Service, the U.S. Forest Service, the Nevada Division of Forestry, the Nevada Division of State Lands, the Nevada Division of State Parks, the Nevada Natural Heritage Program, the California Department of Fish and Game, the California Department of Parks and Recreation, the California Tahoe Conservancy, the Tahoe Lakefront Owners' Association and the League To Save Lake Tahoe.

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5. A project site-specific survey for the presence of TYC was performed on September 12, 2006, by staff of the Commission and found that the project site did not contain TYC. Should the demolition, construction, or continuation of construction on the site extend into a subsequent growing season, the Applicants are required to contact the staff to conduct a site-specific survey (conducted between June 15 - September 30) for the presence of TYC.
6. The Applicants are required by the Tahoe Regional Planning Agency (TRPA) to develop a Fish Habitat Monitoring Plan. The Plan will assess fish use of the shorezone restoration areas and the joint-use pier as fish habitat and will include monitoring with annual reports conducted over a three year period. After the initial three years, the TRPA will assess whether the mitigation is achieving the desired results and whether there will be the need for continued monitoring.
7. On October 13, 2006, staff signed a letter of non-objection that allowed the removal of an existing single use pier, two remnant pilings and one rock crib pier remnant and the construction of a joint use pier to begin construction prior to Commission consideration.
8. **Termination of Existing Lease:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

9. **Removal of Existing Pier, Two Remnant Pilings and One Rock Crib Pier Remnant:** Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; Title 14, California Code of Regulations, section 15304.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 14, California Code of

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Regulations, section 15304.

10. **Issuance of New Lease:**

Two Mooring Buoys: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

New Pier: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

Retention of Two Additional Mooring Buoys: Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures; Title 2, California Code of Regulations, section 2905 (c)(3).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

11. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating

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such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

Pier: Tahoe Regional Planning Agency
California Department of Fish and Game
Lahontan Regional Water Quality Control Board

FURTHER APPROVALS REQUIRED:

Pier: U. S. Army Corps of Engineers

Buoys: Tahoe Regional Planning Agency
U. S. Army Corps of Engineers

EXHIBIT:

A. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:

November 22, 2006

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

TERMINATION OF LEASE: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

REMOVAL OF AN EXISTING PIER, TWO REMNANT PILINGS AND ONE ROCK CRIB PIER REMNANT: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 4, MINOR ALTERATIONS TO LAND; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15304.

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ISSUANCE OF NEW LEASE:

TWO MOORING BUOYS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 1, EXISTING FACILITIES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (a)(2).

NEW PIER: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c)(2).

RETENTION OF TWO ADDITIONAL MOORING BUOYS: FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 2, CALIFORNIA CODE OF REGULATIONS, SECTION 2905 (c)(3).

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

AUTHORIZE TERMINATION OF LEASE NO. PRC 8457.1, A RECREATIONAL PIER LEASE, EFFECTIVE APRIL 1, 2003 TO VICTOR L. METAS AND SHIRLEY F. METAS, TRUSTEES OF THE METAS TRUST DATED JUNE 17, 1998.

AUTHORIZE ISSUANCE OF A TEN-YEAR RECREATIONAL PIER LEASE BEGINNING OCTOBER 12, 2006, TO VICTOR L. METAS AND SHIRLEY F. METAS, TRUSTEES OF THE METAS TRUST DATED JUNE 17, 1998, AND WILLIAM W. REINHARD, AS TRUSTEE OF THE WILLIAM W. REINHARD TRUST CREATED BY REVOCABLE LIVING

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TRUST AGREEMENT DATED MARCH 8, 1993, FOR THE REMOVAL OF AN EXISTING SINGLE USE PIER, TWO REMNANT PILINGS, AND ONE REMNANT ROCK CRIB STRUCTURE; AND THE CONTINUOUS USE AND MAINTENANCE OF TWO MOORING BUOYS AND THE CONSTRUCTION, USE AND MAINTENANCE OF A JOINT USE PIER; THE RETENTION OF TWO ADDITIONAL EXISTING MOORING BUOYS; AS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; NO MONETARY CONSIDERATION PURSUANT TO PUBLIC RESOURCES CODE SECTION 6503.5; LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$300,000.

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